

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KISHOTO STANBACK,

Plaintiff,

- against -

**CORRECTION OFFICER ISAAC EKWEREKWU,
CORRECTION OFFICER JASON AYALA,
SGT. CARLOS ACEVEDO, and SGT.
ALEXANDER ALVARADO** in their individual
and official capacities as Correction Officers employed
by the State of New York,

Defendants.
-----X

COMPLAINT

**PLAINTIFF DEMANDS
TRIAL BY JURY**

Plaintiff, by his attorney, ANDREW F. PLASSE ATTORNEY AT LAW, as and for his
Complaint, hereby alleges and shows to the Court the following:

1. Plaintiff Kishoto Stanback hereby brings this action against Correction Officer Isaac Ekwerekwu, Correction Officer Jason Ayala, Sgt. Carlos Acevedo and Sgt. Alexander Alvarado in their individual and official capacities as Correction Officers employed by the State of New York for damages arising out of unconstitutional policies and actions arising out of an alleged excessive use of force incident which occurred on November 6, 2021.

2. Plaintiff brings this action against the defendants to redress the deprivation of rights secured to him by the Fourth, Fifth, Eighth and Fourteenth Amendments of the United States Constitution, and 42 U.S.C Section 1983. This court has Jurisdiction over a Federal Question. No amount in controversy is required to be plead.

3. No State Law Claims are alleged.

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. Sections 1331, 1332, and 1343(a) (3) and 42 U.S.C. Section 1983.

5. Venue is proper in this District pursuant to 28 U.S.C. 1381.

6. At all times hereinafter mentioned the defendant Correction Officer Isaac Ekwerekwu, Correction Officer Jason Ayala, Sgt. Carlos Acevedo and Sgt. Alexander Alvarado were employed as New York State Correction Officers and acted under color of state law or a statute, ordinance, regulation or custom.

7. Plaintiff has complied with all provisions of the PLRA prior to commencement of this suit.

STATEMENT OF FACTS

8. On November 6, 2021, plaintiff was assigned to Housing Block B, cell Y -28.

9. On November 6, 2021, at approximately 1:00 p.m., on Housing Block B Q Gallery, Plaintiff had a callout Pass to medical for treatment.

10. Plaintiff reported to the area in B Block to be taken to medical.

11. Plaintiff showed his callout pass to Officer Issac Ekwerekwu to go to medical.

12. Officer Ekwerekwu told plaintiff to wait. The plaintiff complied.

13. Plaintiff waited an hour and a half for an escort officer to go to medical.

14. During the aforesaid hour and a half, the plaintiff repeatedly asked Officer Ekwerekwu where his escort officer was.

15. At approximately 2:25 p.m., Officer Ekwerekwu opened the gate for the plaintiff to leave and to be escorted to Medical.

16. As plaintiff walked through the gate, Officer Ekwerekwu inexplicably used excessive force and pushed him causing plaintiff to fall and be injured.

17. Three other Officers, Sgt. Alvarado, Correction Officer Henry Martin, and Correction Officer Jason Ayala began to assault and batter the plaintiff using excessive force.

18. The Officers as aforesaid, along with Officer Ekwerekwu used excessive force and assaulted and battered plaintiff multiple times, using batons, striking his neck, back and both lower legs.

19. Plaintiff did not fight back.

20. The use of batons per DOCCS directive was not justified.

21. Plaintiff sustained severe personal injuries, including, a left leg nondisplaced fibula fracture, resulting in inability to walk, and a left ankle syndesmotom ligament injury, resulting in surgical intervention at Montefiore Mount Vernon Hospital for a left ankle surgery on November 24, 2021, along with head, neck and back injuries.

22. Plaintiff was placed in the SHU on the same day at 4:50 p.m.

23. Plaintiff was subsequently taken that day to Montefiore Mount Vernon Medical Center, where he was an inpatient from November 6, 2021 to November 19, 2021 due to the injuries inflicted on him by the defendants using excessive force.

24. Plaintiff returned to Mount Vernon Hospital for surgery on November 23, 2021.

25. As a result of the incident, the Plaintiff sustained severe and permanent personal injuries.

AS AND FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANTS' CORRECTION OFFICER ISAAC EKWEREKWU, CORRECTION OFFICER JASON AYALA, SGT. CARLOS ACEVEDO AND SGT. ALEXANDER ALVARADO, PLAINTIFF RESTATES AND REALLEGES EACH AND EVERY ALLEGATION SET FORTH IN PARAGRAPHS MARKED AND ENUMERATED "1-25" AND FURTHER ALLEGES AS FOLLOWS:

26. Upon information and belief, the actions taken as aforesaid by Correction Officer Isaac Ekwerekwu, Correction Officer Jason Ayala, Sgt. Carlos Acevedo and Sgt. Alexander

Alvarado on November 6, 2021 by assaulting and battering the plaintiff, causing Kishoto Stanback to sustain severe personal injuries, and was in violation of the Fourth and Eighth Amendments and a deprivation of liberty without due process of law under the Fifth and Fourteenth Amendments.

27 . Upon information and belief, Correction Officer Isaac Ekwerekwu, Correction Officer Jason Ayala, Sgt. Carlos Acevedo and Sgt. Alexander Alvarado acted with actual malice toward the Plaintiff and with willful and wanton indifference and deliberate disregard for the statutory and constitutional rights of the plaintiff.

28. Solely by reason of the above, the plaintiff sustained severe personal injuries, was rendered sick, sore, lame and disabled, sustained severe nervous shock and mental anguish, great physical pain and emotional upset, some of which injuries are permanent in nature and duration, and plaintiff will be permanently caused to suffer pain, inconvenience and other effects of such injuries; plaintiff incurred and in the future may incur further hospital and/or medical expenses in an effort to be cured of said injuries; all to plaintiff's great damage.

29. That by virtue of the foregoing, Plaintiff has been damaged in the amount of TEN MILLION [\$10,000,000.00] DOLLARS.

I. Judgment on the First Cause of Action against defendant Correction Officer Isaac Ekwerekwu, Correction Officer Jason Ayala, Sgt. Carlos Acevedo and Sgt. Alexander Alvarado in the amount of TEN MILLION (\$10,000,000.00) DOLLARS;

II. Punitive Damages against defendant Correction Officer Isaac Ekwerekwu, Correction Officer Jason Ayala, Sgt. Carlos Acevedo and Sgt. Alexander Alvarado in the amount of TEN MILLION (\$10,000,000.00) DOLLARS;

III. Together with the costs and disbursements of this action, for reasonable attorney's fees under the applicable Federal Statutes, and for such other and further relief as to this Court seems just and proper.

DATED: November 2, 2024
Flushing, New York



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**DEMAND FOR JURY TRIAL IS HEREBY MADE
PURSUANT TO RULE 38 OF THE FEDERAL
RULES OF CIVIL PROCEDURE**



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